

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

| | | |
|---------------------------|---|-----------|
| UNITED STATES OF AMERICA, |) | |
| |) | |
| Plaintiff, |) | 8:01CR219 |
| |) | |
| v. |) | |
| |) | |
| ELIJAH H. HARRIS III, |) | ORDER |
| |) | |
| Defendant. |) | |
| _____ |) | |

This matter is before the Court on defendant's motion to file and proceed on appeal *in forma pauperis* (Filing No. 191), motion for notice of appeal (Filing No. 187), and motion for appeal from final judgment of denial from the U.S. District Court in a defect in federal habeas corpus proceedings' integrity (Filing Nos. 188 and 189) from this Court's November 20, 2006, order (Filing No. 186), denying defendant's motion for reconsideration for sine qua non and ex aequo et bono.

Before such an appeal can progress, 28 U.S.C. § 2253(c) provides that either a circuit justice or judge issues a certificate of appealability. To the extent that these filings can be construed as a request for a certificate of appealability, the request will be denied because defendant has failed to make a substantial showing of the denial of a constitutional right. Accordingly,

IT IS ORDERED:

1) No certificate of appealability is issued.

2) Defendant's motion to file and proceed on appeal *in forma pauperis* (Filing No. 191) is denied as moot.

3) All other pending motions (Filing Nos. 187, 188 and 189) are denied.

DATED this 24th day of January, 2007.

BY THE COURT:

/s/ Lyle E. Strom

LYLE E. STROM, Senior Judge
United States District Court